

IN THE
Supreme Court of the United States
OCTOBER TERM, 1976

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SUPREME COURT, U.S.

UNITED STATES OF AMERICA

Appellant

v.

BOARD OF SUPERVISORS OF WARREN COUNTY, MISSISSIPPI,
ET AL.

On Appeal from the United States District Court
for the Southern District of Mississippi

MOTION FOR LEAVE TO FILE BRIEF AMICI CURIAE
IN SUPPORT OF JURISDICTIONAL STATEMENT

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Eddie Thomas, Tommie Lee Williams, James H. Meeks, Charlie Steele, Mrs. Charlie Hunt, and St. Clair Mitchell, black citizens and registered voters of Warren County, Mississippi, respectfully move for leave to file their brief as amici curiae in support of the jurisdictional statement, previously transmitted to the Clerk, in this case. Movants have obtained the consent of the Solicitor General on behalf of the United States as appellant, and the consent of the attorney for the Warren County Board of

Supervisors as appellee. The consent of Mr. Landman Teller as attorney for the Warren County Board of Election Commissioners, as appellee, was requested but refused.¹

Amicus Eddie Thomas is president of the Concerned Citizens of Vicksburg, a black civil rights and civic improvement organization in Warren County. Amicus Charlie Steele is president of the Vicksburg Branch of the National Association for the Advancement of Colored People, a predominantly black civil rights organization in Warren County. The interest of amici arises from the fact that as voters and as black voters they have an interest in securing a constitutional and equitable county redistricting plan for the election of county officials in Warren County which does not unconstitutionally or inequitably dilute black voting strength and which provides substantial equality of population among the districts. Under the county redistricting plan ordered into effect by the District Court, Mr. Thomas was transferred from previous majority black District 3 (pre-1970) to new majority white District 3, Mr. Williams was transferred from previous majority black District 4 (pre-1970) to new majority white District 3, and Mrs. Hunt and Mr.

¹ When we filed the brief for amici curiae with the Clerk with the consent of the United States and the Board of Supervisors, we were unaware that the Warren County Board of Election Commissioners was separately represented in this appeal. The motion to dismiss or affirm filed by the Board of Supervisors was filed by Mr. John W. Prewitt as "Attorney for Defendant-Appellees." The Board of Election Commissioners has waived filing a response to the Jurisdictional Statement. It is our understanding that the Board of Election Commissioners had no authority to participate and did not participate in the production of the county redistricting plan in controversy, and therefore it may be questioned whether they are a party in interest to this appeal. We understand that the election commissioners' predominant interest is in speedy county elections, which have been stayed by the District Court pending this appeal.

Mitchell were transferred from previous majority black District 2 (pre-1970) to new majority white District 1.

Amici are not parties to and are unrepresented in this action filed by the Department of Justice to enforce Section 5 of the Voting Rights Act of 1965. They are plaintiffs in a subsequent action filed by them on behalf of the class of black citizens and voters of Warren County, *Eddie Thomas, et al. v. Warren County Board of Supervisors, et al.*, Civil No. W76-45(N), S.D. Miss., appeal pending (5th Cir.), which presents the same issue presently raised by the United States here, namely, whether the Section 5 three-judge District Court had jurisdiction to order into effect this county redistricting plan, and which also raises the issues of racial discrimination and malapportionment. That action was dismissed on comity and ripeness grounds, and is presently on appeal to the United States Court of Appeals for the Fifth Circuit.

In the Jurisdictional Statement, the United States limits its argument to the contention that the three-judge District Court in Mississippi did not have jurisdiction, in a proceeding to enforce an objection rendered under Section 5 of the Voting Rights Act of 1965, to review or adopt the Board's redistricting plan. The brief of amici curiae makes this contention, but also makes the argument, based on the record in this case, that the plan approved by the three-judge District Court invidiously dilutes black voting strength, effects a retrogression in the position of blacks with respect to their effective exercise of the right to vote, and is malapportioned in comparison with the alternative county redistricting plans presented by the Department of Justice. Thus, even if the Court rejects the contention made by the United States and determines that the three-judge District Court did have jurisdiction to approve the Board's plan and order it into effect, then the Court should examine the court-ordered plan on its merits to determine whether it

meets the strict standards established by this Court in prior decisions for court-ordered redistricting plans.

Respectfully submitted,

/s/ Frank R. Parker
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